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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/764,951

01/26/2004

David G. Miller

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10/14/2008

PHILIPS INTELLECTUAL PROPERTY & STANDARDS

P.O. BOX 3001

BRIARCLIFF MANOR, NY 10510

EXAMINER

KASZTEJNA, MATTHEW JOHN

ART UNIT

PAPER NUMBER

3730

MAIL DATE

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10/14/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action**  
**Before the Filing of an Appeal Brief**

**Application No.**

10/764,951

**Applicant(s)**

MILLER, DAVID G.

**Examiner**

MATTHEW J. KASZTEJNA

**Art Unit**

3739

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 02 September 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_  
13. ☐ Other: \_\_\_\_\_.

/Linda C Dvorak/  
Supervisory Patent Examiner, Art Unit 3739

/M. J. K./  
Examiner, Art Unit 3739  
10/3/8

Continuation of 11. does NOT place the application in condition for allowance because: Applicant states that Rotteveel fails to show an outer shell covering the distal end of an endoscope in which the outer protective shell is fabricated from an electrically insulating material having a thermal conductance greater than 1 W/M<sup>2</sup>-K. Examiner disagrees. Rotteveel teaches that the use of a flat filler is not strictly necessary and that a suitable screening foil, for example aluminum capton can also be placed between the flat filler and the concave acoustic lens. It is well known in the art that, as evident by Appendix A submitted by applicant, that adhesives are available for bonding Kapton to itself and to metals, various paper types, and other films. In the instance of Rotteveel, a foil metal such as aluminum is bonded with Kapton to form a layer within the distal end of the apparatus. It is well known, as evident by Appendix C submitted by applicant, that aluminum has a thermal conductance of 250 W/m-K. Thus as broadly as claimed, Rotteveel meets the limitations of the recited claims. Applicant uses Appendix B to show an aluminum oxide filler within a polyimide as having a thermal conductance lower than 1W/m-K. Rotteveel uses an aluminum foil, not an aluminum oxide (see Col. 5, Lines 40-41). Furthermore, it is unclear how aluminum oxide is shown to have two extremely different thermal conductance values, those being shown as: 45 W/m-K in Appendix B and 30 W/m-K in Appendix C. Applicant also states that alumina does not have a thermal conductance of greater than 1 W/m-K. However, Yagami discloses the use of an alumina-based ceramic, similar to that recited in claim 7 of the instant invention, not merely an alumina as argued by applicant (see Col. 10, Lines 30-33). If Applicant is arguing that an alumina-based ceramic does not have a thermal conductance greater than 1 W/m-K than the claims are improper as claim 7 depends from claim 1 which requires a material having a thermal conductance greater than 1 W/m-K. As broadly as claimed, Yagami and Rotteveel meet the limitations of the recited claims